

STATE BOARD OF EDUCATION
STATE OF GEORGIA

KEITH L.,	:	
	:	
Appellant,	:	
	:	CASE NO. 1995-02
vs.	:	
	:	DECISION
BIBB COUNTY	:	
BOARD OF EDUCATION,	:	
	:	
Appellee.	:	

This is an appeal by Keith L. (Student) from a decision by the Bibb County Board of Education (Local Board) to uphold the decision of a Student Disciplinary Tribunal to assign him to an alternative school for the remainder of the 1994-1995 school year because he attacked and injured another student. In addition, the Local Board assigned the Student to an alternative school for the beginning of the 1995-1996 school year and conditioned his return to regular classes upon his compliance with the alternative school rules and regulations. The Student claims on appeal that the Local Board erred by not permitting him to present additional evidence, the decision is too harsh, and the Tribunal decision was based upon false testimony. There is no merit in any of the Student's claims and the Local Board's decision is sustained.

On September 7, 1994, the Student intentionally hit another student from behind with his elbow. The blow knocked the other student unconscious. The other student fell forward on his face and received facial lacerations and a fractured skull. He was admitted to a hospital, where he remained overnight for observation.

The Student was charged with assaulting another student and a Student Disciplinary Tribunal hearing was held on September 28, 1994. The Student did not deny striking the other student and eyewitnesses testified about what they saw. At the conclusion of the hearing, the Tribunal voted to transfer the Student to the alternative school for the remainder of the 1994-1995 school year.

When the Student appealed to the Local Board, he attempted to introduce a medical report that had been prepared by the student nurse, but the Local Board refused to accept the report. The Local Board affirmed the Tribunal's decision and additionally provided that the Student had to return to the alternative school at the beginning of the 1995-1996 school year and remain there until he complied with the alternative school rules and regulations for return to his regular high school.

On appeal to the State Board of Education, the Student claims that the punishment was too harsh, he should have been permitted to introduce evidence before the Local Board, that a witness should have been called at the Student Disciplinary Tribunal hearing, and that the testimony before the Student Disciplinary Tribunal was false. These claims will be addressed in order.

The Student's first claim is that the punishment was too harsh. "The control and management of the public schools constitutionally rests with the county board of education and such control and management will not be interfered with except where that control and management is contrary to law. See Colson v. Hutchinson, 205 Ga. 559, 67 S.E.2d 764 (1951); Boney v. County Board of Education for Telfair County, 203 Ga. 152 (1947)." Martinius C. v. Griffin-Saldina County Bd. of Educ., Case No. 1992—12 (Ga. SBE, Jul. 9, 1992). The Local Board has the authority to suspend the Student and assign him to an alternative school. There is nothing in the record to indicate that the Local Board's decision was arbitrary or capricious. The State Board of Education, therefore, concludes that the Student's first claim does not require a reversal of the Local Board's decision.

The Student's second claim is that the Local Board should have permitted him to present additional evidence when he appealed to the Local Board. The Local Board, however, can make its decision based upon the record prepared before the Student Disciplinary Tribunal. O.C.G.A. § 20-2-754(c). The Local Board, therefore, was not required to receive any additional evidence when it considered the Student's appeal. The State Board of Education, therefore, concludes that the Student's second claim does not require a reversal of the Local Board's decision.

The Student's third claim is that the nurse who attended to the student who was injured should have been called to testify by the school system. There is, however, no requirement in law for the school system to call any witnesses. The Student's third claim, therefore, does not require reversal of the Local Board's decision.

The Student's last claim is that the Student Disciplinary Tribunal's decision was based upon false testimony. The Tribunal, however, acts in the same capacity as a jury to determine the credibility of the witnesses and to resolve any conflicts in testimony and determine the facts. "The standard for review by the State Board of Education is that if there is any evidence to support the decision of the local board of education, then the local board's decision will stand unless there has been an abuse of discretion or the decision is so arbitrary and capricious as to be illegal. See, Ransum v. Chattooga County Bd. of Educ., 144 Ga. App. 783, 242 S.E.2d 374 (1978); Antone v. Greene County Bd. of Educ., Case No. 1976-11 (Ga. SBE, Sep. 8, 1976)." Roderick J. v. Hart Cnty. Bd. of Educ., Case No. 1991-14 (Ga. SBE, Aug. 8, 1991). There was evidence presented that supports the decision. The Student's fourth claim, therefore, does not support any reason to reverse the Local Board's decision.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board's decision is not arbitrary or capricious and is within its authority and that there was evidence to support the decision. The Local Board's decision, therefore, is SUSTAINED.

This 11th day of May, 1995.

Mrs. King, Mr. Sessoms and Mr. Williams were not present.

Robert M. Brinson
Vice Chairman for Appeals